

HOUSE BILL 2389
By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 66, relative to liens on real property owned by a person who received federal benefits for which the state is entitled to a recovery.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, is amended by adding Sections 2 through 6 of this act as a new chapter thereto.

SECTION 2.

(a)

(1) On and after January 1, 2005, if a person who owns real property in this state receives any federal benefit for which the state is entitled to a recovery of benefits paid on behalf of that person, including, but not limited to, medical assistance pursuant to title 71, then the state shall have a lien on such property for the value of the benefits paid, for which the state may lawfully seek recovery.

(2) Notwithstanding any provision of this title to the contrary and as permitted by federal law, the lien arises on the date the person becomes eligible for the benefit. The state is not required to file the lien in order for it to be effective. The state is not required to comply with the provisions of chapter 21, part 1, and chapter 25 of this title with respect to liens arising under this chapter. If recovery is sought for medical assistance paid pursuant to title 71, then the lien may arise before the person's death only if such a lien complies with all applicable provisions of federal law, including the federal Tax Equity Fiscal Responsibility Act of 1982 and Section 1917 of the federal Social Security Act.

(b) If a lien arises pursuant to subsection (a), then the state agency administering the applicable benefits program must inform the department of finance and

administration, division of real property. The central state office of the division must serve as the central registry of the liens. The division must record the lien, along with any release or other disposition of the lien by the state or a state agency, in a lien book maintained at its central office. The division must establish and maintain an internet web site on which the division posts a notation about each of the state's liens on real property which reasonably identifies the property. The web site must post an appropriate notation of each lien recorded in the lien book. The department is authorized to impose by rule a reasonable fee on searches of its web site database in order to cover the cost of maintaining the central registry.

(c) The lien book maintained by the division must contain the following information about each lien:

(1) The date, hour, and minute that the division received evidence of the lien from the reporting department or agency;

(2) The date, hour, and minute that the division received evidence of the release of any lien recorded in the lien book; and

(3) All abstracts and memoranda, and certified copies of all judgments, decrees, lis pendens, and such other items evidencing a lien or a release of a lien recorded pursuant to this chapter.

(d) The division must index the recordings of liens and releases and must note the nature of the lien in the index. The division may maintain a separate direct and reverse index in its discretion.

SECTION 3. The state is not required to provide notice to the property owner of a lien which exists pursuant to this chapter. The property owner must determine the existence of such a lien by consulting the web site required to be maintained by the department of finance and administration, division of real property.

SECTION 4. If the state fails, neglects, or refuses to release a lien that has been satisfied within fifteen (15) days after the written demand of the defendant or lienee, then the state is liable for the penalty prescribed for failure to release a mortgage on demand after the payment of the debt secured.

SECTION 5. A copy of the abstract, memorandum, or other evidence of a lien, whether released or unreleased, that was recorded in the lien book and certified by the division, shall be received as evidence in any court or tribunal.

SECTION 6. The commissioner of finance and administration is authorized to promulgate rules in accordance with the provisions of title 4, chapter 5, in order to implement the provisions of this chapter.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.